



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/516,932	12/14/2004	Yasuharu Seki	258218US6PCT	8643
22850 7590 10/08/2010 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
MCADAMS, BRAD				
ART UNIT		PAPER NUMBER		
2456				
NOTIFICATION DATE		DELIVERY MODE		
10/08/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

Office Action Summary

Application No.

10/516,932

Applicant(s)

SEKI ET AL.

Examiner

ROBERT B. MCADAMS

Art Unit

2456

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

1. This Office Action is in response to the amendment filed on February 22, 2010.
2. Claims 1-20 are pending.

Continued Examination Under 37 CFR 1.114

3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/22/2010 has been entered.

Response to Arguments

4. Applicant's arguments with respect to Claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 1-4, 8-11 and 14-20** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Bean* (U.S. Patent No. 6,640,023) in view of *Asano* (U.S. PGPub No. 2004/0030902).

As to **Claims 1, 8-10 and 20** *Bean* discloses memory means for separately storing functional generation information and application software, wherein the functional generation information enables the application software, independent of a software version of the application software, to access functions when the functional generation information is concurrently located in the memory means with the application software **(Master Key, when located in the memory means with the application software, enables access to application functions. Column 5, Lines 34-41)**, the functional generation information including a first URL that corresponds to an external location where the functional generation information is registered **(URL 109, Figure 7)** in a second URL that corresponds to an external location where an update to the application software is registered **(Allowed URL 112, Figure 7)**, and a combination of cryptographic keys **(Column 6, Lines 30-55)**;

managing means for managing first functional generation information stored in

said memory means that enables the application software to access first functions
**(Licenses/keys are managed by the Developer's Site 32. Paragraph bridging
Columns 3 and 4);**

obtaining means for obtaining second functional generation information that, if
located in the memory means, would enable the application software to access second
functions, wherein the second functional generation information is registered in an
information providing apparatus that is remotely located from said information
processing apparatus at the first URL and connected to said information processing
apparatus via a network, and wherein said obtaining means obtains said second
functional generation information based on said first functional generation information
**(A new second Master Key is generated from the first Master Key that would
enable additional functions to be accessed (URLs to additional sites that contain
additional applications). Column 2, Lines 38-59);**

However, *Bean* does not expressly disclose comparing the first and second
functional generational information to determine which is the newest.

Asano, in the same field of endeavor, teaches comparing and determining means
for comparing said first functional generation information and said second functional
generation information and for determining which of said first or second functional
generation information is a newest functional generation information; and information
updating means for, when said comparing and determining means determines that said
second functional generation information is newer than said first functional generation
information, updating said first functional generation information stored in said memory

means to said newest functional generation information, such that said memory means contains said second functional generation information and the application software, independent of the software version, is able access the second functions (**Paragraphs 0296-0298**).

At the time of invention, it would have been obvious to a person of ordinary skill in the art to have combined using keys to enable functions as taught by *Bean* with comparing and updating to new keys to enable new functions as taught by *Asano*. The motivation would have been to allow control of functions within the application.

As to **Claims 2, 14 and 17**, *Bean-Asano* teach the apparatus as previously discussed in Claim 1. *Bean* further teaches passage determining means for determining whether a predetermined time has passed on a basis of said first functional generation information, wherein when said passage determining means determines that said predetermined time has passed, said obtaining means obtains said second functional generation information registered in said information providing apparatus via said network (**When a Master Key expires after a predetermined amount of time, a new second Master Key can be obtained. Column 2, Lines 30-59**).

As to **Claims 3, 15 and 18**, *Bean-Asano* teach the apparatus as previously discussed in Claim 1. *Bean* further teaches application software updating means for updating the application software stored in said memory means to application software corresponding to said second functional generation information located at the second

URL, when said comparing and determining means determines that said second functional generation information is newer than said first functional generation information **(The Application is updated to the application listed in the second URL, Allowed URL 112. Figure 7; Paragraph bridging Columns 6 and 7).**

As to **Claims 4, 16 and 19**, *Bean-Asano* teach the apparatus as previously discussed in Claim 3. *Bean* further teaches wherein when said function determining means determines that said software does not have the second functions corresponding to said second functional generation information, said software updating means updates the software stored in said memory using the software corresponding to said second functional generation information located at the second URL **(A watermark is displayed when the second functional generation information is not entered (second Master Key), the second Master Key is obtained and said watermark is removed accessing second functions. Column 4, Lines 30-53).**

As to **Claim 11**, *Bean-Asano* teach the apparatus as previously discussed in Claim 1. *Bean* further teaches wherein said functional generation information is a combination of cryptographic keys, and protocols wherein said functional generation information is shared among a plurality of application software located in said memory means, such that each of the plurality of application software is enabled to access said functions **(Column 6, Lines 30-55).**

7. **Claim 12** is rejected under 35 U.S.C. 103(a) as being unpatentable over *Bean* (U.S. Patent No. 6,640,023) in view of *Asano* (U.S. PGPub No. 2004/0030902) and in further of *Chan* (U.S. PGPub. No. 2002/0194356 A1).

As to **Claim 12**, *Bean-Asano* teach the apparatus as previously discussed in Claim 1.

However, *Bean-Asano* do not teach a music content distribution service.

Chan, in the same field of endeavor, teaches wherein said information providing apparatus is a server configured to provide said personal computer a music content distribution service (**Paragraph 0040**);

wherein said application software receives a copyrighted material from said music content distribution service (**Paragraph 0040**); and

wherein said functional generation information enables said application software to receive and use said copyrighted material (**Paragraph 0044**).

At the time of invention, it would have been obvious to a person of ordinary skill in the art to have combined the server as taught by *Bean-Asano* with the music content distribution service as taught by *Chan*. The motivation would have been to provide updates to music programs.

8. **Claims 5-7 and 13** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Bean* (U.S. Patent No. 6,640,023) in view of *Asano* (U.S. PGPub No. 2004/0030902) and in further view of *Xian* (U.S. Patent No. 6,327,584).

9. As to **Claims 5 and 13**, *Bean-Asano* teach comparing said first functional generation information and said second functional generation information with each other and determining newest functional generation information as discussed in Claim 3.

However, *Bean-Asano* do not expressly disclose comparing a third functional generation information from a recording medium.

Xian, in the same field of endeavor, teaches a medium determining means for determining whether a recording medium is loaded; and reading means for reading third functional generation information as functional generation of software recorded on said recording medium when said medium determining means determines that said recording medium is loaded and said information updating means updates said first functional generation information to said newest functional generation information; and said software updating means updates the software stored in said memory using software corresponding to said newest functional generation information. **(Update information (third functional generation) is loaded from the CD-ROM (medium) and used to update the original file (first functional generation) Column 13, Lines 30-42);**

At the time of invention, it would have been obvious to a person of ordinary skill in the art to compare the first and second functional generation information as taught by *Bean-Asano* with the third functional generation information as taught by *Xian* to determine the newest functional generation information. The motivation would have been to provide another medium for updated software versions.

As to **Claim 6**, *Bean-Asano-Xian* teach the apparatus as previously discussed in Claim 5. *Xian* further teaches when said obtaining means does not obtain said second functional generation information via said network, said comparing and determining means compares said first functional generation information and said third functional generation information with each other, and determines said newest functional generation information **(Current revision installed on computer and the revision on the CD-ROM (first and third functional generation information) are compared and the newest revision (functional generation information) is saved to the computer. Column 13, Lines 30-42).**

As to **Claim 7**, *Bean-Asano-Xian* teach the apparatus as previously discussed in Claim 5. *Xian* further teaches when said comparing and determining process determines that said second functional generation information and said third functional generation information are identical with each other, said information updating means updates said first functional generation information to said third functional generation information; and said software updating means updates the software stored in said

memory using software corresponding to said third functional generation information (**Revision from the network and the revision on the CD-ROM (second and third functional generation information) are compared and the newest revision (functional generation information) is saved to the computer. Column 13, Lines 30-42).**

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT B. MCADAMS whose telephone number is (571)270-3309. The examiner can normally be reached on Monday-Thursday 5:30am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. B. M./
Examiner, Art Unit 2456

/Rupal D. Dharia/
Supervisory Patent Examiner, Art
Unit 2400